

*Friday,
10th July, 1908*

ABSTRACT OF THE PROCEEDINGS
OF THE
Council of the Governor General of India,
LAW AND REGULATIONS

Vol. XLVII

April 1908 - March 1909

ABSTRACT OF PROCEEDING
OF
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ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS,

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Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at the Viceregal Lodge, Simla, on Friday, the 10th July 1908.

P R E S E N T :

His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir Louis William Dane, K.C.I.E., C.S.I., Lieutenant-Governor of the Punjab.

His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., G.C.I.E., Commander-in-Chief in India.

The Hon'ble Mr. H. Erle Richards, K.C.

The Hon'ble Major-General C. H. Scott, C.B., R.A.

The Hon'ble Sir Harvey Adamson, Kt., C.S.I.

The Hon'ble Mr. J. O. Miller, C.S.I.

The Hon'ble Mr. W. L. Harvey, C.I.E.

The Hon'ble Mr. J. S. Meston, C.S.I.

The Hon'ble Sir Rameshwara Singh, K.C.I.E., Maharaja Bahadur of Darbhanga.

The Hon'ble Munshi Madho Lal.

The Hon'ble Dr. Rashbehary Ghose, C.I.E., D.L.

LOCAL AUTHORITIES LOAN (AMENDMENT) BILL.

The Hon'ble MR. MESTON moved that the Bill to amend the Local Authorities Loan Act, 1904, be taken into consideration. He said :—"When he introduced this Bill at the last meeting of this Council, Sir Edward Baker explained fully the purposes of the measure. Since then the Bill has been duly published and no objections have been received. We did not indeed anticipate that any objection would be taken to it, inasmuch as the purpose of the Bill is to remove a small and purely technical defect in the existing law, and its character is wholly non-contentious."

The motion was put and agreed to.

The Hon'ble MR. MESTON moved that the Bill be passed.

The motion was put and agreed to.

[*Mr. Harvey.*]

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ASSAM LABOUR AND EMIGRATION (AMENDMENT) BILL.

The Hon'ble MR. HARVEY moved for leave to introduce a Bill to amend the Assam Labour and Emigration Act, 1901. He said:—" In September 1905 the Chief Commissioner of Assam recommended that Act VI of 1901, the Assam Labour and Emigration Act, should be withdrawn from the districts of Cachar and Sylhet in the Surma Valley and from the districts of Kamrup and Goalpara in Lower Assam. He represented that in the two former districts the provisions of the Act had fallen into disuse in respect of the management of labour on the tea gardens, and that in Kamrup and Goalpara the extent of tea cultivation was inconsiderable, and there were hardly any labourers subject to the provisions of the Act. The majority of the employers of tea garden labour in these districts were in favour of the withdrawal of the Act, and in the circumstances the Chief Commissioner held that the maintenance of a special law for the control of labour was unjustifiable. The Government of India agreed with this view, but preferred to defer action till the receipt of the report of the Committee which they appointed in February 1905 to enquire into the supply of labour for the tea districts of Upper Assam.

" The evidence recorded by the Labour Enquiry Committee in the recruiting districts showed, however, that there was a widespread feeling against withdrawing the recruitment provisions of the Act which apply to these districts. It was feared that abuses would spring up, if all control over the engagement of labourers for the Surma Valley and the districts of Lower Assam were given up. The Committee recognized the danger, but a majority were prepared to give the system a trial by suspending the operation of the recruitment provisions of the Act in so far as the Surma Valley and the districts of Kamrup and Goalpara were concerned, whilst at the same time exempting these districts from the provisions of the Act relating to the labour districts. Most of the Local Governments, when consulted regarding the Committee's proposals, were strongly opposed to the suspension or withdrawal of the recruitment provisions of the Act. They considered that abuses would arise, and that the portion of the law regulating the engagement of the labourers should be retained.

" The Government of India accepted these conclusions, and decided that only the provisions relating to the labour districts should be dispensed with. This it is proposed to effect by the issue of a notification under section 221 of the Act declaring that, with certain exceptions of a minor nature, the provisions relating to the labour districts are withdrawn from the districts of the Surma Valley and from Kamrup and Goalpara.

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“It will then be necessary to legislate in order to enable the taking of contracts to be dispensed with in the case of emigrants proceeding to these four districts, and the present law, which in certain cases renders the execution of a contract in the district of recruitment compulsory, will have to be amended since the terms of the contract will no longer be enforceable. It is therefore proposed in the Bill before Your Excellency's Council to enable the Local Government by notification in the official Gazette to dispense with or relax any of the provisions of Chapters III and IV and section 90 of the Act relating to recruitment, on such conditions as may be prescribed in the notification.

“Clause 2 has been made general, so that the new procedure may be hereafter applied to any other labour district besides those referred to, should circumstances arise to render this advisable. The amendment of the law which is proposed will also enable a trial to be given to the recommendation of the majority of the Labour Enquiry Committee, by permitting the Local Government to dispense with all the provisions of the Act governing recruitment in the case of labourers proceeding to the four districts. The Lieutenant-Governor of the United Provinces has expressed his willingness to allow a trial to be given in the United Provinces to the form of recruitment which is conducted by garden sardars, that is to say, labourers who have been to the tea gardens and return to their country to enlist other labourers. It is considered desirable to give free recruitment under this system a trial, with a view to ascertaining how far we can safely advance towards the final abandonment of the special legislation which at present controls the movement of labour between two parts of India. It has all along been the desire of the Government of India that the present law should disappear, and in the orders which were issued with the Secretary of State's approval on the report of the Labour Enquiry Committee, it has been announced that the Government of India will further consider the question on the expiry of two years.

“In clause 3 of the Bill opportunity has been taken to give effect to the principle that, if the revenues of a fund have not been specially assigned to local management and the expenditure is under the orders of Government, it should cease to have a separate existence and its accounts should be absorbed in the Imperial or Provincial accounts, as the case may be. The Inland Labour Transport Fund which is constituted under section 218 of the Act is of the nature referred to. Clause 3 of the Bill is intended to permit the fees and fines realised under the Act to be included in the Provincial accounts. The amendment of section 218 which it enacts will admit of the deficits of one province

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being met from the surplus in another, a course which past experience has proved to be desirable. The expenditure of the receipts will be restricted to the purposes indicated in the Bill, and any surplus there may be will be applied towards reducing the annual or registration charges."

The motion was put and agreed to.

The Hon'ble MR. HARVEY introduced the Bill.

The Hon'ble MR. HARVEY moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the Fort St. George Gazette, the Calcutta Gazette, the United Provinces Gazette, the Eastern Bengal and Assam Gazette and the Central Provinces Gazette in English, and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

INDIAN EMIGRATION (AMENDMENT) BILL.

The Hon'ble MR. HARVEY moved for leave to introduce a Bill further to amend the Indian Emigration Act, 1883. He said:—"The Bill introduces two amendments in the Indian Emigration Act of 1883.

"The first of these is designed to exempt from the application of the Emigration Act Indian subjects of foreign European settlements. The wording of the Act, as it now stands, includes these latter, who are consequently subject to the restrictions imposed upon the departure from India of Indians under a contract to labour for hire. The case which has led to the change in the law which we propose to make arose as follows. In October 1906 the Protector of Emigrants, Bombay, declined to permit the embarkation of some Portuguese subjects, natives of Damaun, who desired to proceed to Lourenço Marques to work in the salt pans. These men were in possession of passports from the Portuguese authorities and were only passing through Bombay *en route* to their destination. The action of the Protector, which was legally correct, was made the subject of a diplomatic representation to His Majesty's Government, and at their instance we have considered the advisability of amending our Act to meet the class of cases under consideration. The Local Governments consulted are agreed that subject to certain regulations being imposed to prevent the evasion of the Act by persons who are not the subjects of foreign European settlements, exemption should be provided for in favour of Indian subjects of the Portuguese and

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French settlements in India desiring to proceed under contract to countries outside India. For this purpose the expression 'Native of India' is being defined as bearing the meaning given to it in the General Clauses Act, and power is being taken to prescribe the procedure which should be followed by persons desirous of emigrating from British Indian ports who claim to be subjects of foreign European settlements in India.

"The second amendment is a slight one. Section 18 of the Act permits of the appointment by a Local Government of only one Medical Inspector at ports from which emigration is lawful. This has given rise to inconvenience when the Medical Inspector, as is sometimes the case, is a Civil Surgeon with other duties to perform. Power is now being taken in the amending Bill to provide for the appointment of one or more Medical Inspectors."

The motion was put and agreed to.

The Hon'ble MR. HARVEY introduced the Bill.

The Hon'ble MR. HARVEY moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

The Council adjourned to Friday, the 7th August 1908.

J. M. MACPHERSON,
Secretary to the Government of India,
Legislative Department.

SIMLA ;
The 10th July 1908. }